



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
FREEDOM OF INFORMATION ACT BRANCH
Washington, D.C. 20570

Via email

September 21, 2021

Re: FOIA Request NLRB-2021-001263

Dear Lisa Demidovich [Bush Gottlieb, ALC]:

This is in response to your request, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received on August 18, 2021, in which you sought “all supporting records submitted by any party, excluding any affidavits, in *Walt Disney Pictures, Twentieth Century Fox Film Corp., and Relentless Productions, LLC*, Case No. 31-CA-273063. You assumed financial responsibility for the processing of your request in the amount of \$250.00.

We acknowledged your request on August 18, 2021. In a telephone conversation and subsequent email with a member of the FOIA staff on September 3, 2021, you excluded the Writers Guild of America 2017 Theatrical and Television Basic Agreement and Sideletter as well as the Memorandum of Agreement for the 2020 WGA Theatrical and Television Basic Agreement from the responsive records.

Your request is granted in part and denied in part, as explained below.

A search of the Agency’s electronic casehandling system, NxGen, has been conducted. This search has yielded 146 pages of responsive, releasable records from the requested case file, which are attached.

After a review, I have determined that portions of the records are exempt from disclosure under Exemptions 6 and 7(C) of the FOIA (5 U.S.C. § 552(b)(6) and (b)(7)(C)). Specifically, redactions have been made the records to protect the privacy interests of individuals named therein. These redactions were made pursuant to FOIA Exemption 6, which pertains to information the release of which would constitute a clearly unwarranted invasion of personal privacy, FOIA Exemption 7(C), which pertains to records or information compiled for law enforcement purposes, the release of which could reasonably be expected to constitute an unwarranted invasion of personal privacy. 5 U.S.C. § 552(b)(6) and (b)(7)(C)).

Please note that portions of the attached records have solid black or white markings. These markings were in the original records and are not redactions

made by the FOIA Branch pursuant to the FOIA. Our redactions appear as black marks with a white overlay text with the applicable FOIA exemptions noted.

Your request is denied to the extent that other responsive records yielded from the search is withheld in their entirety pursuant to FOIA Exemptions 4.

5 U.S.C. § 552(b)(4). The withheld records contain confidential commercial or financial information about the employer. Specifically, copies of a draft Mutual Non-Disclosure Agreement and the Employer's Insider Trading Compliance Program were submitted to the Agency during the Region's investigation of the unfair labor practice charge as part of their offer of proof/position statement. Because the submitter does not customarily release this information to the public and it is not available to the public from any other sources, the information is confidential for purposes of Exemption 4. *Food Marketing Institute v. Argus Leader Media*, 139 S.Ct. 2356, 2363 (2019).

For the purpose of assessing fees, we have placed you in Category A, commercial use requester. This category refers to requests "from or on behalf of a person who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made, which can include furthering those interests through litigation." NLRB Rules and Regulations, 29 C.F.R. § 102.117(d)(1)(v).

Consistent with this fee category, you "will be assessed charges to recover the full direct costs of searching for, reviewing for release, and duplicating the records sought." 29 C.F.R. § 102.117(d)(2)(ii)(A). Charges are \$9.25 per quarter-hour of professional time. 29 C.F.R. § 102.117(d)(2)(i).

Two hours of professional time were expended in reviewing for release the requested material. Accordingly, please remit \$74.00.

Payment Instructions: Due to the COVID-19 pandemic and resulting widespread employee telework at the Agency's Headquarters offices, we are no longer accepting checks or money orders as payment at this time. To submit payment for your FOIA request, please use www.pay.gov. From the www.pay.gov home page, scroll down to the bottom left corner to select "Pay a FOIA Request." Click "See all options" and go to "Filter By Agency" to check the box for the National Labor Relations Board. Continue following instructions on the website. Please remember to include the Invoice Number, which is the NLRB FOIA Case No., and the amount you intend to pay. Further, please be advised that all FOIA payments must be paid in full before any future FOIA requests are processed.

You may contact Teresita Sanabria, the FOIA Specialist who processed your request, at (202) 568-3531 or by email at teresita.sanabria@nrlb.gov, as well as the Agency's FOIA Public Liaison, for any further assistance and/or to discuss any aspect of your request. The FOIA Public Liaison, in addition to the FOIA Specialist, can further explain responsive and releasable agency records,

suggest agency offices that may have responsive records, and/or discuss how to narrow the scope of a request in order to minimize fees and processing times. The contact information for the FOIA Public Liaison is:

FOIA Public Liaison
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: FOIAPublicLiaison@nrlb.gov
Telephone: (202) 273-0902
Fax: (202) 273-FOIA (3642)

After first contacting the Agency, you may additionally contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
Email: ogis@nara.gov
Telephone: (202) 741-5770
Toll free: (877) 684-6448
Fax: (202) 741-5769

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an administrative appeal with the Division of Legal Counsel (DLC) through FOIAonline at: <https://foiaonline.gov/foiaonline/action/public/home> or by mail or email at:

Nancy E. Kessler Platt
Chief FOIA Officer
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: DLCFOIAAppeal@nrlb.gov

Any appeal must be postmarked or electronically submitted within 90 days of the date of this letter, such period beginning to run on the calendar day after the date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based.

Please be advised that contacting any Agency official (including the FOIA Specialist, FOIA Officer, or the FOIA Public Liaison) and/or OGIS does not stop

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the 90-day appeal clock and is not an alternative or substitute for filing an administrative appeal.

Sincerely,

/s/ *Synta E. Keeling*

Synta E. Keeling
FOIA Officer

Attachment: (146 pages)